

Senate Bill 382

By: Senators Mullis of the 53rd, Chance of the 16th and Jones of the 25th

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to provide for the crime of retail theft; to provide for penalties; to provide for related matters; to provide for an effective date and for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by adding a new Code section to read as follows:

"16-8-14.1.

(a) It shall be unlawful for a person to give a false or fictitious name or address or to give the name or address of another person without that person's approval or permission for the purpose of obtaining or attempting to obtain a refund from a business establishment for merchandise.

(b) It shall be unlawful for a person to obtain or attempt to obtain a refund in the form of cash, check, credit on a credit or debit card, a merchant gift card, or credit in any other form from a merchant using a driver's license not issued to such person, a driver's license containing false information, an identification card containing false information, an altered identification card, or an identification card not issued to such person.

(c) A person who violates the provisions of subsection (b) of this Code section shall be guilty of retail theft in the first degree and, upon conviction, shall:

(1) When the property which was the subject of the theft is \$500.00 or less in value, be punished as for a misdemeanor; provided, however, that:

(A) Upon conviction of a second offense for retail theft, where the first offense is either a felony or a misdemeanor, as defined by this Code section, in addition to or in lieu of any imprisonment which might be imposed, the defendant shall be fined not less than \$500.00, and the fine shall not be suspended or probated;

(B) Upon conviction of a third offense for retail theft, where the first two offenses are either felonies or misdemeanors, or a combination of a felony and a misdemeanor, as defined by this Code section, in addition to or in lieu of any fine which might be imposed, the defendant shall be punished by imprisonment for not less than 30 days or confinement in a 'special alternative incarceration-probation boot camp,' probation detention center, diversion center, or other community correctional facility of the Department of Corrections for a period of 120 days or shall be sentenced to monitored house arrest for a period of 120 days and, in addition to either such types of confinement, may be required to undergo psychological evaluation and treatment to be paid for by the defendant; and such sentence of imprisonment or confinement shall not be suspended, probated, deferred, or withheld; and

(C) Upon conviction of a fourth or subsequent offense for retail theft, where the prior convictions are either felonies or misdemeanors, or any combination of felonies and misdemeanors, as defined by this Code section, the defendant commits a felony and shall be punished by imprisonment for not less than one nor more than ten years; and the first year of such sentence shall not be suspended, probated, deferred, or withheld;

(2) When the property which was the subject of the theft exceeds \$500.00 in value, be guilty of a felony and shall be punished by imprisonment for not less than one nor more than ten years;

(3) When the property which was the subject of the theft is taken from three separate stores or retail establishments within one county during a period of seven days or less and when the aggregate value of the property which was the subject of each theft exceeds \$500.00 in value, be guilty of a felony and shall be punished by imprisonment for not less than one nor more than ten year; and

(4) When the property which was the subject of the theft is taken during a period of 180 days and when the aggregate value of the property which was the subject of each theft exceeds \$500.00 in value, be guilty of a felony and shall be punished by imprisonment for not less than one nor more than ten years.

(d) A person who violates the provisions of subsection (a) of this Code section shall be guilty of retail theft in the second degree and, upon conviction, shall be guilty of a misdemeanor.

(e) In all cases involving retail theft, the term 'value' means the actual retail price of the property at the time and place of the offense. The unaltered price tag or other marking on property, or duly identified photographs thereof, shall be prima-facie evidence of value and ownership of the property.

(f) Subsections (c) and (d) of this Code section shall in no way affect the authority of a sentencing judge to provide for a sentence to be served on weekends or during the

64 nonworking hours of the defendant as provided in Code Section 17-10-3, relative to
65 punishment for misdemeanors."

66 **SECTION 2.**

67 This Act shall become effective on July 1, 2014, and shall apply to all conduct occurring on
68 or after such date.

69 **SECTION 3.**

70 All laws and parts of laws in conflict with this Act are repealed.